SECTION 400.00 – PROJECT DEVELOPMENT

SECTION 405.00 – PROJECT DEVELOPMENT INTRODUCTION

There are several steps and procedures that are accomplished by the designer in developing any project that includes the potential for utility facility conflicts. The ITD Design Manual covers all aspects of the project development process for highway improvement projects using State and/or Federal-Aid funds. This section describes the project development process regarding utility facilities (see Flow Chart Appendix F).

SECTION 410.00 – UTILITY PROCEDURE WITH A LOCAL PUBLIC AGENCY (LPA)

When a Local Public Agency (city, county, or highway district) receives Federal-Aid funds for a local road project, ITD is obligated to ensure compliance with Federal and State regulations.

Generally, a State/Local Agreement for a given project will identify the party (ITD, Local, or Consultant) responsible for project development. A consulting engineering firm that is administered by the Local Agency, LHTAC or ITD District Project Development will develop a majority of local projects. The consulting engineering firm proceeds with project development procedures as required by the ITD Design Manual and this guide, and coordinates with the project administrator.

When utility facilities are being relocated at the expense of the LPA, the Utility/Railroad Engineer will negotiate the utility agreement.

When consultant-designed plans are transmitted to the Roadway Design Section for Final Design Review, the Area Engineer, through the Engineering Assistant, will provide the Utility/Railroad Engineer with a copy of the plans.

For details regarding ITD responsibilities related to these projects refer to ITD Guidelines for Local Public Agency Projects.

SECTION 415.00 – CONCEPT OF PROJECT

During concept, perform the following:

- Identify which Utilities are located within the limits of the project. A list of Utilities may be obtained from the utility one-call center that services the county where the project is located (see Appendix E for phone numbers of one-call centers). Some Utilities do not belong to one-call centers and must be contacted individually for information.
- Review existing utility permits for Utilities within the project limit. Also, discuss the project with the District individual(s) responsible for permitting.
- Verify utility facility locations by a field survey.
- Contact the applicable port of entry for any limitations for overhead clearances.

For complex utility facility situations consider Subsurface Utility Engineering (SUE). Contact the Utility/Railroad Unit for information.

NOTE: A local government-owned utility facility (sewer, water, etc.) shall be treated in the same way as any other utility facility.

SECTION 420.00 – PRELIMINARY DESIGN OF PROJECT

At the start of plan preparations, utility facility locations marked in the field may be obtained by requesting a "design locate" from the utility one-call center that services the county where the project is located (see Appendix E for phone numbers of one-call centers) or by contacting individual Utilities.

Be aware that the utility one-call centers normally process utility facility locates for excavators who will start ground disturbing activities within a few days. It is recommended to telephone the utility one-call center to explain the "design locate" request. The utility one-call center will forward the "design locate" request to each member Utility within the defined project area. Some Utilities only provide plan information rather than field locates and some Utilities provide both.

Contact all Utilities within the project limits by writing an initial letter (see Appendix G.1) that:

- Outline the proposed project, its length, and terminal points. Include a vicinity map with geographical locations of the sections the project will go through (township, range, etc.).
- Requests the Utility provide information concerning the location and elevation of all utility facilities located below and above ground.
- State that the Utility will be provided, at a later date, the roadway plans showing existing utility facility locations.
- Includes the following paragraph for all Federal-Aid funding projects:

  " Company's preliminary engineering costs covering the preparation of plans and the estimates of cost covering utility facilities to be removed, adjusted, or relocated at project expense will be eligible for federal participation after the date of this letter. If utility facility removal, adjustment, or relocation is at Company expense, federal participation is not available and preliminary engineering costs will be at Company expense."
- Includes a deadline date for when the information is required from the Utility.

Prior to the deadline, follow-up the letter with a telephone call to determine the Utility's progress in providing the requested information. Document all conversations and continue to follow-up with the Utility until the requested information is received.

Incorporate the utility information received into the project plans.

When the alignment and grade of the road are established, and the topography is shown along with any proposed features, determine the following:

- Which utility facilities must be relocated or adjusted and at whose expense.
- Utility service life requirements in relation to the expected service life of the roadway and related facilities.

NOTE: For any existing utility facility being replaced, consideration should be given to requiring the utility to remove the existing facility rather than allowing abandonment in place.

420.01 Cost of Utility Facility Relocation. The cost of relocating utility facilities consists of the cost of acquiring the property rights of a Utility, if any, plus the preliminary engineering costs covering the preparation of plans and estimates of cost and the cost of all materials and labor covering utility facilities to be relocated.

Property rights of a Utility may consist of an easement, prescriptive rights, or other property interest. The cost of acquiring the property rights of a Utility is paid by either relocating utility facilities at project expense within the road right-of-way (method encouraged by ITD) or replacing the Utility's property rights in kind outside of the road right-of-way at project expense. Property rights of a Utility being acquired that does not involve the relocation of utility facilities is acquired in accordance with the R/W procedures used to acquire other private property.

Relocation of a utility facility consists of the labor and materials necessary to provide a service or product to the user/customer in a manner that maintains the overall functional capacity that existed prior to the utility relocation. Rearrangement or changes to the existing capacity for a more efficient operation as a result of present day codes or operation needs is allowed. Additional costs to improve capacity of a relocated utility facility substantially above that which existed before the relocation of the utility facility will be at the expense of the Utility.

Where an existing utility facility has existing property rights, the cost of relocating the utility facilities is at project expense.

Where a utility facility was previously located on the public right-of-way at project expense under a prior project, the relocation under a new project will also be at project expense.

Where an existing utility facility occupies existing public right-of-way, the cost of relocation is at the Utility's expense. A claim of prescriptive rights for a utility facility located on public right-of-way is not eligible for reimbursement of relocation costs based upon a 1959 Idaho Supreme Court ruling. A claim of franchise rights for a utility facility located on public right-of-way is not eligible for reimbursement of relocation costs unless the Utility is granted or conveyed property rights.

420.02 Utility to Individual Parcels of Property. A property owner may request, during negotiations of property acquisition, that utility faculties be relocated or adjusted. If the property owner's request involves service of an Utility to the property, then the costs to accommodate the property owner should be included and paid for during the right-of-way acquisition process.

When the service of an Utility to an individual user/customer or single parcel of property is being relocated at project expense and the property is being acquired (e.g. a building or water well) for the project, all costs for disconnecting, removing, or adjusting the utility facilities providing services to that parcel of land, not including utility facilities that just cross the property, should be included and paid for during the right-of-way acquisition process.

If the property owner's request involves utility facilities that just cross the property, the Utility/Railroad Engineer is to be consulted before a decision is made on the property owner's request.

420.03 Continue Coordination with Utility. Send a letter (see Appendix G.2) and two sets of preliminary plans to all Utilities involved that:

- Requests verification of utility facilities location information depicted by plans.
- Requests identification of any utility easements on the plans.

- Invites representatives to a field inspection.
- Provides service life of highway improvement project to the Utility to use for comparing the remaining service life of their facilities for determining any appropriate action.
- Requests copies of property documents or other information to substantiate reimbursement of utility relocation or adjustment costs at project expense, if applicable. An Utility may claim prescriptive rights if utility facilities have been in place for a period of 5 years or longer, except for public right-of-way, in accordance with Idaho Code 5-203.
- Asks whether the relocation or adjustment work will be done by Utility's forces or by contract.
- Requests a cost estimate for reimbursable work at project expense. The cost estimate is to be detailed enough to show basis of costs for labor, materials, equipment and salvage.
- If the information is available, also provide the utilities any cross-sectional information showing existing and proposed project conditions. Utilities are concerned with obstructions (buildings, trees, etc.), road slopes of cuts and fills, having to replace large amounts of road surfacing, and extensive traffic control.

Issues that must be resolved prior to final design include:

- Requirements for Utility coordination with highway contractor.
- Any constraints regarding the location, relocation or adjustment of utility facilities.
- Use of poles or bridge conduits and hangars by more than one Utility (commonly known as "joint use" or "underbuilt").
- Whether project Environmental Documentation covers utility work or Utility is required to get its own environmental approval.
- Whether utility work can be completed prior to project construction or during project construction (determine a general length of time needed to do work).
- Consideration of phasing the construction of the project or requiring that specific work to be accomplished by ITD's Contractor within a specific timeframe to assist with relocating or adjusting utility facilities.
- Consideration of ITD's Contractor performing utility work at the expense of the Utility. This work can be accomplished by an Utility Adjustment Agreement.

On some projects, it is advantageous and feasible to have utility facilities moved in advance of project advertisement or construction. The District and the Roadway Design Section have the joint responsibility for initiating action toward advance relocation of utilities.

Follow up the letter and any field inspections with a telephone call, prior to the deadline, to determine that the Utility is providing the requested information. Document all conversations and continue to follow-up with the Utility until the requested information is received.

SECTION 425.00 – FINAL DESIGN OF PROJECT

After the Utility returns the requested information, review the following:

- Utility locations, relocations and adjustments for conflicts or problems with the project.
- Location of wires and anchors for poles.

- Buried utility conflicts with guardrail and sign locations.
- Identification of utility critical elevations to determine whether “potholing” or other SUE methods are warranted.
- Enough utility data and information have been provided.
- Review the provided property information and cost estimate to substantiate that utility relocations or adjustments at project expense are justified and reasonable.

If the information provided is inadequate, continue to request additional necessary information.

NOTE: Consider inviting Utilities to design review meetings as necessary throughout the project development process if it is determined that utility work is critical to the successful construction of the project.

Incorporate the information into the project plans (see Appendix G.3 for example plan sheet). At a minimum, the plans should show:

- The locations of all utility facilities to be relocated, adjusted, removed, or retained including the identification of the Utility.
- Indicate which utility facilities are to be removed, relocated, or adjusted by whom and at whose expense, either project or company.
- Identify joint use utilities by each Utility.

The plan sheets showing the utility facilities may be a separate subgroup of the construction plans labeled "Utility Plans” or details regarding utility facilities may be included on the construction plans.

Include the latest version of the standard utility insert 105.07 in the special provisions. Contact Utility/Railroad Engineer for a copy of the latest version.

Include activities in the CPM schedule created during project development for all utility relocation and adjustment work.

The District submits the plans showing the utility relocation information to the Utility/Railroad Engineer of Roadway Design Section prior to or just after Final Design Review. The Utility Plans Submittal consists of the following:

- Letter of transmittal (include a copy with plans).
- One set of white prints of plans (including Title Sheet and Typical Section Sheets) showing existing and proposed utility facilities that are color coded to indicate the existing facilities to be relocated, adjusted, or removed at project and Utility expense. Use separate colors for each Utility involved and indicate by symbols the existing and proposed location of the utility facilities.
- One set of white prints of plans (including Title Sheet and Typical Section Sheet) showing existing and proposed utility facilities.
- Copy of any portion of the project proposal that involves Utilities or utility work (i.e. standard utility insert for the special provisions). Copy of any correspondence or information relating to relocating utility facilities prior to project construction. Provide a copy of appropriate bid items for any Utility Adjustment Agreement work.
- Copy of Utility provided property information to substantiate reimbursement of utility facility relocation or adjustment costs at project expense.

- Copy of Utility provided cost estimate of work at project expense with a statement of whether work is to be done by Utility forces or by contract. Provide limit of cost concurred to by the Utility for any Utility Adjustment Agreement work.
- Copy of any other pertinent information.

SECTION 430.00 –SERVICE AGREEMENTS

A utility service agreement is required when the product or service of a Utility is required to meet the need of certain components of the highway system. For example electricity for luminaires or traffic signals, telephone service for traffic counters, water for irrigation system, etc.

Required utility facilities to service components of the highway system shall be serviced by underground utility facilities where feasible.

A utility service agreement should be prepared by the District and completed prior to the project being awarded for construction. The service agreement should include the product or service to be provided by the Utility and who is responsible to receive and pay utility billings. The utility service agreement should also explain any maintenance to be done and who will be responsible (ITD, Utility, Local agency, etc.). A copy of the utility service agreement should be provided to the Resident/Regional Engineer who will be responsible for contacting the Utility at the appropriate time.

Include the service hook-up contact and payment requirement in the proposal under the 105.07 standard insert.

SECTION 435.00 – UTILITY AGREEMENT

A utility agreement is entered into with a Utility whenever there is monetary compensation for work involving utility facilities. Each utility agreement has specific terms that include how the work is paid for and by whom. All utility agreements may be modified by a supplemental utility agreement or a utility change order. All utility agreements are reviewed by the Legal Section as to form and are signed by the Assistant Chief Engineer of Development after being recommended for signature by the Roadway Design Engineer. All attachments of the utility agreement (including plans, cost estimates, special provision, etc.) and references are part of the utility agreement.

A utility agreement may be written to cover any situation. The following utility agreements cover the majority of situations involving utility facilities.

435.01 Utility Adjustment Agreement. There are situations when it is advantageous for the Utility to have the ITD Contractor perform the work of relocating or adjusting of utility facilities, or portions thereof, at the expense of the Utility. Examples of these situations are:

- utility facilities located on a major bridge to be constructed or existing bridge being reconstructed;
- areas where the Utility cannot obtain access after the project is constructed (e.g., behind retaining walls or very steep slopes);
- when special construction equipment or methods of construction are used that is normally not available to the Utility.

These Adjustment agreements are between ITD and the Utility where the utility facilities, or portions thereof, are relocated or adjusted by ITD's Contractor at the expense of the Utility. The project plans reflect the work to be done including project bid items with specifications. The estimated unit prices of the bid items are "non-participating" for the project since the cost of the work is to be paid by the Utility. The Utility, in accordance with the agreement, may accept or reject the Contractor's unit price of the bid item if the unit price exceeds a price established by the agreement. If the Utility rejects the bid price, the work is removed from ITD's contract and the Utility will then perform the work.

NOTE: Any modifications to either public water or sewage systems by ITD's contractor require the review of plans by the Idaho Department of Health and Welfare, Division of Environmental Quality in accordance with Title 39, Chapter 1, subsection 118 of Idaho Code.

435.02 Lump Sum Utility Agreement. This is an agreement between ITD and the Utility where utility facilities, or portions thereof, are relocated or adjusted at project expense. The cost of the utility work is negotiated prior to execution and is specified in the utility agreement. Generally, lump sum basis of payment is used when the cost of work is less than $25,000 and can be precisely defined with small likelihood that there would be any changes to the work.

The dollar amount specified in the lump sum utility agreement, including any modifications by a supplemental agreement or construction change order, is paid in full after completion of the utility work without any retainage amount being withheld regardless of the actual cost of the utility work. No documentation of costs is required.

435.03 Actual Cost Utility Agreement. This is an agreement between ITD and the Utility where utility facilities, or portions thereof, are relocated or adjusted at project expense. The cost of the utility work is estimated prior to execution of the utility agreement. The dollar amount of the actual cost of the utility work supported by adequate documentation is paid, minus a retainage amount, during the course of the utility work. Final payment of the actual cost of all utility work supported by adequate documentation, including any modifications by a supplemental agreement or utility change order, minus any previous payments plus any retainage amount is paid in full after completion of the utility work.

435.04 Special Utility Agreement. There are situations when a special utility agreement is necessary. An example of this situation is when it is necessary to have a Utility accelerate work as a method to avoid a Contractor's claim. Contact the Utility/Railroad Engineer when these situations arise.

SECTION 440.00 - ACTION BY UTILITY UNIT OF ROADWAY DESIGN

The Utility/Railroad Unit will do the following:

- Review and comment on project development submittals from the District having utility involvement.
- Review project utility plan submittals and resolve any necessary corrections or clarifications regarding utility facilities.
- Determine with the Utility the basis of payment (Lump Sum or Actual Cost; see above) for any agreement at project expense.

On projects where utility facilities are to be relocated or adjusted only at utility expense (none at project expense), the Utility/Railroad Engineer will make a submittal to the Utility as follows:

- Letter of transmittal explaining what is requested from the Utility.

- Two copies of the utility plans for information.
- A Waiver of Utility Hearing. If the Utility does not sign the Waiver of Utility Hearing they must request a utility hearing (see Section 445.00) by a date designated by the Utility/Railroad Engineer, or the utility foregoes its right to any Utility Hearing.

On projects where utility facilities are to be relocated or adjusted at project expense, the Utility/Railroad Engineer will make a submittal to the Utility as follows:

- Letter of transmittal explaining what is requested from the Utility.
- Duplicate originals of utility agreement.
- Two copies of the utility plans clearly distinguishing utility facilities to be relocated or adjusted at project expense from those utility facilities to be relocated or adjusted at Utility expense.
- A Waiver of Utility Hearing. If the Utility does not sign the Waiver of Utility Hearing they must request a utility hearing (see Section 445.00) by a date designated by the Utility/Railroad Engineer, or the utility foregoes its right to any Utility Hearing.

On projects where utility facilities are to be relocated or adjusted at utility expense by ITD's Contractor (Utility Adjustment Agreement), the Utility/Railroad Engineer will make a submittal to the Utility as follows:

- Letter of transmittal explaining what is requested from the Utility.
- Duplicate originals of utility agreement.
- Two copies of the utility plans clearly distinguishing work to be done by ITD's Contractor by bid items at Utility expense.
- Two copies of bid item descriptions for work to be done by ITD's Contractor at Utility expense.
- A Waiver of Utility Hearing. If the Utility does not sign the Waiver of Utility Hearing they must request a utility hearing (see Section 445.00) by a date designated by the Utility/Railroad Engineer, or the utility foregoes its right to any Utility Hearing.

Upon receipt from the Utility of a signed agreement and supporting documents, the Utility/Railroad Engineer will make a detailed check of all items and take necessary steps to resolve any differences or deficiencies. If acceptable, the Utility/Railroad Engineer will have agreements executed by ITD and distribute copies of the agreement as required.

Upon receipt from the Utility of a signed Waiver of Utility Hearing, the Utility/Railroad Engineer will have a Board Order issued to the Utility once the District is ready for the Utility to begin work. Utility work can only be done after all the necessary right-of-way has been obtained.

SECTION 445.00 – UTILITY HEARING PROCESS

A utility hearing is held in accordance with Subsection 40-312(3) of Idaho Code when a Utility requests a utility hearing. The intent of a utility hearing is to allow an opportunity for a Utility to present objections to relocating or adjusting utility facilities to accommodate a highway improvement project to the Idaho Transportation Board. The Utility may rescind its request for a utility hearing up to the time that the Idaho Transportation Board takes the Utility's objections under advisement.

The utility hearing process takes a number of months to complete. The process consist of a utility hearing meeting consisting of a discussion of hearing issues; taking of testimony at the utility hearing; submittal of a Board agenda item with hearing testimony; time for the Idaho Transportation Board to consider and make a determination on the hearing testimony during a regular scheduled meeting; and finally, actions to implement Board's decision. A project cannot be submitted for PS&E until a requested utility hearing is held and a determination made on the issues. The District is encouraged to try to resolve any potential utility hearing issues as soon as any issues are identified. These issues may be resolved by modifying various design elements of the project to eliminate or lessen impacts to utility facilities.

The steps of the utility hearing process are as follows:

1. Utility submits a written requests for a utility hearing to ITD. The Utility may rescind its request for a utility hearing and sign a waiver to the utility hearing up to the time that the Idaho Transportation Board takes the Utility's objections under advisement.
2. Utility/Railroad Engineer attempts to resolve utility issues by having Utility identify the issues and then coordinating with the District to address the Utility's concerns.
3. Utility/Railroad Engineer schedules a utility hearing meeting.
    - Generally a date, time, and location agreeable to the Utility is arranged, although ITD has the authority to establish any of the meeting parameters.
    - Utility is officially notified of utility hearing meeting by certified letter with return receipt (identifies the utility representative that signs for the letter). Utility is encouraged to limit oral testimony to one or two representatives and to provide written testimony.
    - Utility/Railroad Engineer coordinates the utility hearing portion of the utility hearing meeting with an available ITD hearing officer.
    - Utility/Railroad Engineer coordinates the discussion portion of the utility hearing meeting with the District. Appropriate exhibits and/or plans need to be available.
4. The utility hearing meeting starts with a discussion between the Utility and ITD about the issues so that everyone is aware and knowledgeable of the project and utility issues with the intent of possibly resolving the Utility's objections to the project. Attendance of this discussion is normally anyone involved with the project and includes ITD, the Utility and any necessary person they wish to have in attendance. Attendees may leave at the conclusion of the discussions except those who are going to present testimony at the utility hearing.
    - Provide an overview of the project and utility issues.
    - Discuss and concisely define the objects of Utility.
    - Discuss any modifications to project design that may eliminate or lessen impacts to utility facilities
5. Utility hearing is held by a hearing officer in a private area to tape oral and take written testimony separately from the Utility and local entities. Consultants and other parties of interest for the Utility and local entities may present testimony is authorized to do so by the Utility or local entities. The conclusion of the utility hearing ends the utility hearing meeting. If the Utility does not attend, the hearing officer notes this fact. ITD does not provide testimony because ITD's position will be shown by the Idaho Transportation Board agenda item with Board resolution.
6. Hearing officer provides original tape of oral testimony and original written testimony to the Utility/Railroad Engineer and duplicate tape of oral testimony and copies of written testimony to the District Project Development Engineer.
7. Utility/Railroad Engineer has tape of oral testimony transcribed by Public Affairs.

8. Utility/Railroad Engineer submits Idaho Transportation Board agenda item including Board resolution and copies of the utility hearing testimony.
9. Idaho Transportation Board meeting is held and board members make a decision. Generally a decision is made against the Utility if it did not attend the utility hearing meeting. Please be aware that the decision may be to hold the agenda item to future meetings or request additional information; generally the Utility is not allowed to make a direct presentation to the Idaho Transportation Board.
10. The Utility/Railroad Engineer notifies all parties involved of the Idaho Transportation Board's decision and takes other actions to implement the Board's decision.

SECTION 450.00 – PROJECT SUBMITTED FOR PS&E

The Utility/Railroad Engineer will coordinate with the Area Engineer in verifying or resolving any discrepancies between utility facility relocation or adjustment shown by the plans with the utility plans and/or any utility agreement prior to the project being advertised for bids.

SECTION 455.00 – PROJECT ADVERTISED FOR BIDS

The Utility/Railroad Engineer will send a copy of the Contractor's Bid Proposal and plans for information to each Utility having utility facilities to be relocated, adjusted, or removed on the project.